

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNEAPOLIS
FOURTH DIVISION

Denny Hecker's Cadillac – Pontiac)
GMC, Inc., Walden Fleet Group,)
Inc., and Southview Chevrolet, Co.,)

Plaintiffs,)

vs.)

GMAC Inc., formerly doing business)
as GMAC, LLC,)

Defendant.)

Court File No. 0:10-CV-00068-JRT-RLE

AFFIDAVIT OF MARSH J. HALBERG

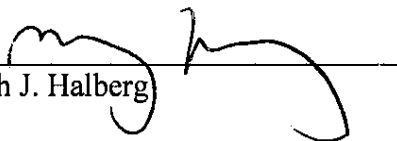
STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Marsh J. Halberg, being first duly sworn, states as follows:

1. My name is Marsh J. Halberg and I am an attorney licensed to practice law in the state courts for Minnesota and the United States Federal Court.
2. I have been licensed since 1979 and have spent the vast majority of my legal career as either a prosecutor or defense attorney.
3. In my capacity as an attorney I was retained to assist the Hecker companies and Mr. Hecker on pre-indictment matters involving potential criminal charges.
4. I have reviewed the Motion for Dismissal by GMAC in United States District Court File No. 0:10-CV-00068-JRT-RLE. If I understand those pleadings correctly, they are claiming that the various Hecker companies that are named Plaintiffs in that action are not subject to civil liabilities for the tax, title and license (TTL) issues that are the subject of this litigation.
5. Corporations can be subject to criminal prosecution and officers of those companies can be charged based upon their actions on behalf of the company. Forfeiture actions can also be sought as the result of criminal convictions.

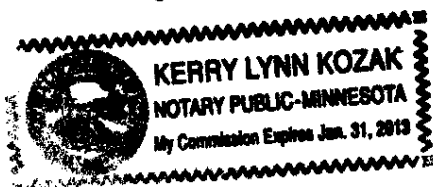
6. I was personally present when numerous law enforcement agents conducted a search warrant at the Hecker business offices on 500 Ford Drive in St. Louis Park, Minnesota in 2009. During the execution of that search warrant I had the opportunity to speak with law enforcement and understand that one of the focuses of their investigation was the alleged wrongdoing for failure by Mr. Hecker and/or the Hecker companies to pay tax, title and license fees owing from the various car dealerships, including the named Plaintiffs above. The application for that search warrant, which would detail the basis for those concerns, has been under seal at the court.
7. At the execution of that search warrant, a press conference was held by a uniformed State Trooper, whose name I do not recall at this time, before numerous television cameras. In that time, the Trooper expressed the State's desire to seek the documents concerning criminal investigation for alleged wrongdoings involving tax, title and license. In addition, the Trooper notified the public that the government was setting up a victim complaint line for individuals who had experienced tax, title and license problems.
8. I have had numerous discussions with a representative of the United States Attorneys' Office regarding the TTL issues. Mr. Hecker and the companies are the focus of civil and criminal claims for the TTL matters. Discussions were initiated regarding payment of the TTL claims prior to the indictment against Mr. Hecker occurring. I would draw your attention to Paragraph 17 of the pending federal indictment, US. District Court File CR-10-32 JNE/SRN, attached hereto, showing Mr. Hecker and the Plaintiffs are the subjects of the federal indictment. The indictment also seeks forfeiture sanctions.
9. Further, I am attaching a copy of a letter dated November 18, 2009, which reflects the Government's claim against Mr. Hecker and the Hecker entities.

FURTHER YOUR AFFIANT SAYETH NOT.


Marsh J. Halberg

Subscribed and sworn to before me
this 5th day of March, 2010.


Notary Public



U.S. v. Dennis Earl Hecker, et al.

the benefit of HECKER and the Hecker organization, rather than holding those proceeds in trust and paying the proceeds promptly to the lender that financed the vehicle.

17. The material false statements, false representations, and omissions included misrepresentations and omissions to retail customers of the Hecker organization's dealerships. Namely, after HECKER and the Hecker organization received vehicle sales proceeds, including amounts intended by the customer to pay for sales tax, title, and license fees, in a significant number of instances, HECKER and others at his direction intentionally and fraudulently kept the tax, title, and license portion for the benefit of HECKER and the Hecker organization, rather than holding that portion in trust and paying it promptly to the state.

18. At least in part to prevent the conspiracy and fraud from coming to light and/or being reported to the authorities, the defendants and others engaged in cover-up and lulling communications with various individuals and entities.

19. In or about June 2009, HECKER filed personal bankruptcy in an attempt to avoid his repayment obligations to the lenders. Despite filing personal bankruptcy, and despite the hundreds of millions of dollars owed to his lenders and others, HECKER, with the assistance of others, has concealed assets and has continued to live an extravagant lifestyle.



U.S. Department of Justice

United States Attorney
District of Minnesota

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(612)664-5600

November 18, 2009

VIA U.S. MAIL AND FACSIMILE (952)224-4840

Marsh Halberg, Esq.
3800 American Boulevard West
Suite 1590
Bloomington, MN 55431

Re: Dennis Hecker and Hecker Entities

Dear Mr. Halberg:

The following are the current numbers from the State of Minnesota with respect to the unpaid sales tax, title, registration, and lien payoff matters. These numbers continue to go up as additional victims come forward and as we learn of additional information. Please note that the categories reflect particular violations of state law, but as you know, these matters are being investigated as part of the federal investigation. In such cases, a knowing violation of state law can be relevant evidence in a federal case, as it provides evidence of notice and of the defendant's intent.

- Pursuant to the violations of Minn. Stat. § 297B.10(b) - Collects Tax and Fail to remit to State - Felony: total currently due and owing to the state is \$98,780.08.
- Pursuant to the violations of Minn. Stat. § 609.52, Subd. 2 - (1) Theft - Registration: total currently due and owing to the state is \$28,138.45, which includes unpaid registration of \$23,176.20 and unpaid title fees of \$4,962.25.
- Pursuant to the violations of Minn. Stat. § 609.52, Subd. 2(4) Theft by swindle: total currently due and owing to various lending institutions for unpaid liens is \$85,066.93.

The total of all three categories is \$211,985.46.

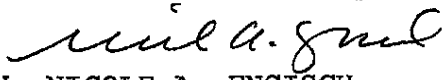
In addition, pursuant to the violations of Minn. Stat. § 609.52, Subd. 2(5) Theft - temporary control: total amount at issue was \$112,837.43. This amount reflects money paid but in an untimely manner.

Marsh Halberg, Esq.
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Please let me know if you have any questions.

Sincerely,

B. TODD JONES
United States Attorney


BY: NICOLE A. ENGISCH
Assistant U.S. Attorney